

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. T-01/09-60
)
 Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department for Children and Families, Economic Services Division, Health Access Eligibility Unit (HEAU) terminating her VPharm-2 benefits and not retroactively reinstating the petitioner's VPharm coverage following the petitioner's failure to pay her premium in a timely manner. The issue is whether under the petitioner's circumstances the regulations bar retroactive reinstatement of benefits.

The facts in the case are not in dispute. The following findings are based on the representations of the parties in telephone conferences held On March 6 and May 8, 2009.

FINDINGS OF FACT

1. In December 2008 the petitioner was enrolled in VPharm-2, subject to the payment of a monthly premium based on her income. The petitioner paid her premium through monthly automated withdrawals from her bank account

2. On December 18, 2008 her premium payment was declined due to insufficient funds in her bank account.

3. On December 19, 2008 HEAU sent the petitioner a notice closing her VPharm-2 coverage effective December 31, 2008 due to nonpayment of the premium. The notice included specific instructions for payment of her premium and included the following advice: "If we receive and process your payment before coverage ends, your coverage will continue."

4. When HEAU had not received the petitioner's premium by December 31, 2008 it terminated the petitioner's VPharm-2 coverage effective that date.

5. On January 13, 2009 OVHA received a premium payment from the petitioner. Based on this payment HEAU, that same day, notified the petitioner that she would be eligible for the Healthy Vermonters Program (HVP) with coverage effective that day, and that she was again eligible for VPharm-2, with coverage beginning February 1, 2009. (HVP is a program that allows enrollees to purchase most pharmaceutical prescriptions at a discount. VPharm-2 provides actual coverage for those prescriptions.)

6. It is not clear when the petitioner may have received the above notice, but on January 14, 2009 she filled a prescription at her pharmacy. The pharmacy informed her

that the prescription was not covered under VPharm-2, but that she could purchase it herself for \$76, which is presumed to have been the HVP price. The petitioner is now seeking reimbursement for that \$76 prescription.

7. The petitioner does not dispute that she did not pay her premium in a timely manner and that she received the various notices from HEAU regarding her coverage.

ORDER

The Department's decisions terminating the petitioner's VPharm-2 coverage as of January 1, 2009 and not granting the petitioner retroactive coverage for January 2009 are affirmed.

REASONS

Based on a legislative directive (Act 66 of 2003) to enact cost-savings measures designed to sustain the public health care assistance programs, the Department has adopted regulations establishing monthly "premiums" to be paid prospectively by VPharm-2 recipients. The VPharm regulations require that coverage shall be terminated if an individual does not pay the required program fee by the billing deadline. See W.A.M. § 3504.1(A). In this case there is no dispute that the petitioner did not pay her program fee by

the December 31, 2008 deadline and that she was duly and timely notified by the Department of the closure of her benefits as of that date.

There is also no dispute that the Department reinstated her coverage effective the first day of the month (February 1) following the date it received her premium payment (January 13). This was fully in accord with the program regulations at § 3504(B). Unfortunately, there are no provisions in the regulations for prospective or retroactive reinstatement of coverage *immediately* upon receipt of a late premium payment.¹ Inasmuch as the Department's decisions in this matter were in accord with the pertinent regulations the Board is bound to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule 1000.4D.

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¹ W.A.M. § 2504B includes a provision excusing late premium payments only in cases of certified "medical incapacity". At the status conference on May 8, 2009 the petitioner raised for the first time that she was "depressed" during the period in question. If the petitioner feels she can obtain medical documentation (See W.A.M. § M150.1[B][1]) that she was psychologically *incapable* of paying her premium between December 15, 2008 and January 13, 2009, she can apply to the Department for retroactive coverage of any uncovered medical bills she incurred in January 2009.